



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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DA 97-1699

Released: August 8, 1997

Bell Atlantic and Pacific Bell file Applications for Review of the Common Carrier Bureau's Order that Required these Companies to revise their Refund Plans submitted in the 1993-96 Annual Access Tariff Investigation

Pleading Cycle Established

CC Docket Nos. 93-193 and 94-65 ✓

OPPOSITIONS/COMMENTS: September 8, 1997

REPLY COMMENTS: September 23, 1997

On July 25, 1997, the Bell Atlantic Telephone Companies (Bell Atlantic) and Pacific Bell filed applications for review of the Common Carrier Bureau's *Refund Plan Revision Order*,¹ which required these companies to modify their refund plans submitted pursuant to the Commission's *1993-96 Annual Access Tariff Order*.² This public notice seeks oppositions/comments and replies to these applications for review.

In the *1993-96 Annual Access Tariff Order*, which resolved the Commission's investigation of the annual access tariffs filed by local exchange carriers (LECs) from 1993 to 1996, the Commission rejected the contention of Bell Atlantic and Pacific Bell that end-user common line revenues may be excluded from the common line basket for purposes of allocating sharing amounts among price cap baskets.³ The Commission ordered Bell Atlantic and Pacific Bell to implement any necessary refunds through a one-year exogenous cost adjustment to the Price Cap Indices (PCIs) incorporated in these LECs' annual access tariff filings to become effective on July 1, 1997.⁴ In the revised 1997 Tariff Review Plans filed by Bell Atlantic and Pacific Bell, these LECs calculated an exogenous cost decrease in the common line basket to

¹ 1993 Annual Access Tariff Filings, GSF Order Compliance Filings, 1994 Annual Access Tariff Filings, 1995 Annual Access Tariff Filings, 1996 Annual Access Tariff Filings, CC Docket No. 93-193, Phase I, Part 2, and CC Docket No. 94-65, Memorandum Opinion and Order, DA 97-1326 (Com. Car. Bur., released June 25, 1997) (*Refund Plan Revision Order*).

² See 1993 Annual Access Tariff Filings, GSF Order Compliance Filings, 1994 Annual Access Tariff Filings, 1995 Annual Access Tariff Filings, 1996 Annual Access Tariff Filings, CC Docket No. 93-193, Phase I, Part 2, and CC Docket No. 94-65, Memorandum Opinion and Order, FCC 97-139 (released April 17, 1997) (*1993-96 Annual Access Tariff Order*).

³ *Id.* at paras. 37-39.

⁴ *Id.* at paras. 104-106.

account for additional sums that should have been applied to that basket for sharing purposes and also included offsetting exogenous cost increases to other baskets.

In the *Refund Plan Revision Order*, the Common Carrier Bureau (Bureau) determined that Bell Atlantic and Pacific Bell may not, in connection with the refunds ordered for the common line basket in the *1993-96 Annual Access Tariff Order*, increase PCIs for other baskets to account for the previous misallocation of sharing obligations among baskets.⁵ The Bureau concluded that the "equities or balancing of interests" in this particular case did not justify the proposed offsetting increases. The Bureau ordered Bell Atlantic and Pacific Bell to file revised tariffs in accordance with the Bureau's finding.

In the Applications for Review of the *Refund Plan Revision Order* filed by Bell Atlantic and Pacific Bell, these LECs contend that the Bureau erred in not permitting them to make exogenous cost increases in baskets other than the common line basket in order to offset the exogenous cost decrease in the common line basket required by the *1993-96 Annual Access Tariff Order*. Bell Atlantic and Pacific Bell argue that these offsetting exogenous cost increases are necessary in order to maintain the total sharing obligation at 50% of earnings for the time period at issue. These LECs assert that, if they are not allowed to make the offsetting exogenous cost increases, their sharing obligation will be greater than 50% of earnings for the years at issue, which they allege would violate the Commission's price cap rules. Bell Atlantic and Pacific Bell also contend that the Bureau lacks authority to raise their total sharing obligation because only the *allocation* of the total sharing obligation among price cap baskets was at issue in the 1993-96 annual access tariff investigation.

Interested parties may submit oppositions/comments on the Applications for Review filed by Bell Atlantic and Pacific Bell no later than **September 8, 1997**. Replies must be filed by **September 23, 1997**.

An original and four copies of all comments and replies must be filed in accordance with Section 1.51(c) of the Commission's Rules, 47 C.F.R. § 1.51(c). In addition, one copy of each pleading must be filed with International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 1231 20th Street, N.W., Washington, D.C. 20036 and one copy with the Chief, Competitive Pricing Division, Room 518, 1919 M Street, N.W., Washington, D.C. 20554.

For further information, contact Joel Taubenblatt or Wanda Harris, Competitive Pricing Division, Common Carrier Bureau, (202) 418-1530.

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⁵ *Refund Plan Revision Order* at paras. 14-21.